

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
NORTHERN DIVISION  
No. 2:20-CR-4-1M

UNITED STATES OF AMERICA )  
                                )  
                                )  
v.                            )  
                                )  
                                )  
FREDERICK W. BERGER,     )                           **ORDER**  
                                )  
                                )  
Defendant.                  )

This matter is before the court for preliminary examination of the government's motion for revocation of Defendant's probation and for hearing on the government's oral motion to detain Defendant pursuant to 18 U.S.C. § 3143 and Rule 32.1(a)(6) of the Federal Rules of Criminal Procedure. A hearing was held in this matter on September 30, 2021, at which Defendant appeared and was represented by Assistant Federal Defender James E. Todd, Jr., and the government was represented by AUSA Bradford M. Devoe.

At the hearing, the court orally stated findings and conclusions, all of which are hereby incorporated by reference. The court restates in writing the following findings and conclusions of the court:

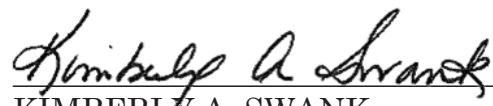
1. That probable cause exists to believe that Defendant violated the terms of probation by engaging in criminal conduct (communicating threats) and by failing to comply with the terms and conditions of the home confinement/electronic

monitoring program as alleged in the government's motion for revocation filed on August 20, 2021; and

2. That Defendant has failed to establish by clear and convincing evidence that he will not pose a danger to the safety of others if released. The court's determination in this regard is based upon the following factors or reasons: the nature and circumstances of the alleged violations; Defendant's mental health history; evidence that Defendant has made threats of physical violence against the probation officers; Defendant has generally refused to comply with instructions of the probation office and the court; Defendant is unlikely to abide by conditions of release; Defendant poses a serious risk of danger to the U.S. Probation Officers; and any other findings or reasons stated in open court.

Accordingly, the court hereby ORDERS that Defendant be committed to the custody of the Attorney General or a designated representative to be detained pursuant to 18 U.S.C. § 3143(a)(1) pending his revocation hearing.

This 11th day of October 2021.

  
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KIMBERLY A. SWANK  
United States Magistrate Judge